

NATUROPATHIC PHYSICIAN PRACTICE ACT

Part 1 - General Provisions

58-71-101. Title.

This chapter is known as the "Naturopathic Physician Practice Act."

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act.
- (2) "Acupuncture" has the same definition as in Section 58-70-102.
- (3) "Board" means the Naturopathic Physicians Licensing Board created in Section 58-71-201.
- (4) "Diagnose" means:
 - (a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;
 - (b) to attempt to conduct an examination or determination described under Subsection (4)(a);
 - (c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (4)(a); or
 - (d) to make an examination or determination as described in Subsection (4)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.
- (5) "Local anesthesia" means an agent, whether a natural medicine or prescription drug, which:
 - (a) is applied topically or by injection in superficial tissues associated with the performance of minor office procedures;
 - (b) has the ability to produce loss of sensation at the site of minor office procedures; and
 - (c) does not cause loss of consciousness or produce general sedation.
- (6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.
- (7) (a) "Minor office procedures" means:
 - (i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;
 - (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear; and
 - (iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and
 - (b) "Minor office procedures" does not include:
 - (i) general or spinal anesthesia;
 - (ii) office procedures more complicated or extensive than those set forth in Subsection (7)(a);
 - (iii) procedures involving the eye; or
 - (iv) any office procedure involving tendons, nerves, veins, or arteries.
- (8) "Natural medicine" means:
 - (a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as prescription drugs or controlled substances;
 - (b) over-the-counter medications;
 - (c) other non-prescription substances, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; and
 - (d) prescription drugs:
 - (i) that are not controlled substances as defined in Section 58-37-2;
 - (ii) the prescription of which is consistent with the competent practice of naturopathic medicine; and
 - (iii) the prescription of which is approved by the division in collaboration with the naturopathic formulary advisory peer committee.

- (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician, and includes the use of:
 - (i) natural medicines; and
 - (ii) uncomplicated episiotomy.
 (b) "Naturopathic childbirth" does not include the use of:
 - (i) forceps delivery;
 - (ii) general or spinal anesthesia;
 - (iii) caesarean section delivery; or
 - (iv) induced labor or abortion.
- (10) "Naturopathic mobilization therapy":
 - (a) means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body;
 - (b) does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier; and
 - (c) does not include manipulation as defined in Title 58, Chapter 73, Chiropractic Physician Practice Act.
- (11) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, biofeedback, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise. Naturopathic medicine does not include the practice of physical therapy or physical rehabilitation.
- (12) "Practice of naturopathic medicine" means:
 - (a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes:
 - (i) using naturopathic childbirth, but only if:
 - (A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or its successor as determined by the division in collaboration with the board; and
 - (B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:
 - (I) refer patients to the consulting physician; and
 - (II) consult with the consulting physician;
 - (ii) using naturopathic mobilization therapy;
 - (iii) using naturopathic physical medicine;
 - (iv) using minor office procedures;
 - (v) prescribing or administering natural medicine;
 - (vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;
 - (vii) prescribing barrier devices for contraception;
 - (viii) using dietary therapy;
 - (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;
 - (x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;
 - (xi) taking of a history from and conducting of a physical examination upon a human patient; and
 - (xii) prescribing and administering natural medicines and medical devices, except a naturopathic physician may only administer:
 - (A) a prescription drug, as defined in Section 58-17b-102, in accordance with Subsection (8)(d); and
 - (B) local anesthesia that is not a controlled substance, and only in the performance of minor office procedures;

- (b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (12)(a), whether or not for compensation; or
- (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.
- (13) "Prescription drug or device" means:
 - (a) a drug or device which, under federal law, is required to be labeled with either of the following statements or their equivalent:
 - (i) "CAUTION: Federal law prohibits dispensing without prescription"; or
 - (ii) "CAUTION: Federal law restricts this drug to use by or on the order of a licensed veterinarian"; or
 - (b) a drug or device that is required by any applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only.
- (14) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-71-501.
- (15) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Part 2 - Board

58-71-201. Board.

- (1) There is created the Naturopathic Physicians Licensing Board consisting of three licensed naturopathic physicians and two members of the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) (a) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.
- (b) The board may also designate one of its members on a permanent or rotating basis to:
 - (i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (ii) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning that complaint.

58-71-202. Naturopathic formulary peer committee.

- (1) The division shall establish a naturopathic formulary advisory peer committee under Subsection 58-1-203(1)(f) to make recommendations to the board for the naturopathic formulary which shall:
 - (a) consist of noncontrolled legend medications deemed appropriate for the scope of practice of naturopathic physicians; and
 - (b) include all homeopathic remedies.
- (2) The committee shall consist of five members:
 - (a) one naturopathic physician who is a member of the board;
 - (b) three naturopathic physicians who are not members of the board; and
 - (c) one licensed pharmacist who is also a pharmacognosist.
- (3) The committee members shall:
 - (a) be appointed by the director of the division;
 - (b) be appointed and serve in accordance with Section 58-1-201, except as those provisions are modified by this section; and
 - (c) serve without compensation, travel costs, or per diem for their services.
- (4) The committee and the division may seek input from other licensing boards.

Part 3 - Licensing

58-71-301. Licensure required - License classifications.

- (1) A license is required to engage in the practice of naturopathic medicine, on or for any person in Utah, as a naturopathic physician.
- (2) The division shall issue to a person who qualifies under this chapter a license in the classification of naturopathic physician.

58-71-302. Qualifications for licensure.

- (1) An applicant for licensure as a naturopathic physician, except as set forth in Subsection (2), shall:
 - (a) submit an application in a form prescribed by the division which may include:
 - (i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and
 - (ii) a record of professional liability claims made against the applicant and settlements paid by or in behalf of the applicant;
 - (b) pay a fee determined by the department under Section 63-38-3.2;
 - (c) be of good moral character;
 - (d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a naturopathic physician, as evidenced by having received an earned degree of doctor of naturopathic medicine from:
 - (i) a naturopathic medical school or college accredited by the Council of Naturopathic Medical Education or its successor organization approved by the division;
 - (ii) a naturopathic medical school or college that is a candidate for accreditation by the Council of Naturopathic Medical Education or its successor organization, and is approved by the division in collaboration with the board, upon a finding there is reasonable expectation the school or college will be accredited; or
 - (iii) a naturopathic medical school or college which, at the time of the applicant's graduation, met current criteria for accreditation by the Council of Naturopathic Medical Education or its successor approved by the division;
 - (e) provide satisfactory documentation of having successfully completed, after successful completion of the education requirements set forth in Subsection (1)(d), 12 months of clinical experience in naturopathic medicine in a residency program recognized by the division and associated with an accredited school or college of naturopathic medicine, and under the preceptorship of a licensed naturopathic physician, physician and surgeon, or osteopathic physician;
 - (f) pass the licensing examination sequence required by division rule established in collaboration with the board;
 - (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and
 - (h) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure.
- (2) An applicant for licensure as a naturopathic physician qualifying under the endorsement provision of Section 58-1-302 shall:
 - (a) be currently licensed in good standing in another jurisdiction as set forth in Section 58-1-302;
 - (b) document having met all requirements for licensure under Subsection (1) except the clinical experience requirement of Subsection (1)(e);
 - (c) have passed the examination requirements established under Subsection (1)(f) which:
 - (i) the applicant has not passed in connection with licensure in another state or jurisdiction; and
 - (ii) are available to the applicant to take without requiring additional professional education;
 - (d) have been actively engaged in the practice of a naturopathic physician for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah; and
 - (e) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure.

58-71-303. Term of license - Expiration - Renewal.

- (1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.
- (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.
- (3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

58-71-304. License renewal requirements.

- (1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule, complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board.
- (2) If a renewal period is extended or shortened under Section 58-71-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

58-71-304.2. Temporary license.

- (1) The division may issue a temporary license to an individual who:
 - (a) meets all qualifications for licensure except completion of the 12 month clinical experience required under Section 58-71-302; and
 - (b) presents a plan acceptable to the division and the board under which the applicant will practice under the direct supervision of a licensed naturopathic physician, physician and surgeon, or osteopathic physician, who supervises not more than three naturopathic physicians in an approved clinical experience program.
- (2) A temporary license issued under this section expires on the date the licensee completes the clinical experience program, but not more than 18 months from the original date of issue.
- (3) A temporary license under this section may be issued only once to an individual.

58-71-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

- (1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;
- (2) an individual administering a domestic or family remedy;
- (3) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited under state or federal law, but this subsection does not:
 - (a) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition: or
 - (b) prohibit providing truthful and nonmisleading information regarding any of the products under this subsection;
- (4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;
- (5) a person acting in good faith for religious reasons as a matter of conscience or based on a personal belief when obtaining or providing information regarding health care and the use of any product under Subsection (3);
- (6) an individual authorized by the Department of Health under Section 26-1-30, to withdraw blood to determine the alcohol or drug content pursuant to Section 41-6-44.1;
- (7) a naturopathic medical assistant while working under the direct and immediate supervision of a licensed naturopathic physician to the extent the medical assistant is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of naturopathic medicine; and
- (8) an individual who has completed all requirements for licensure under this chapter except the clinical experience required under Section 58-71-302, for a period of one year while that individual is completing

that clinical experience requirement and who is working under the provisions of a temporary license issued by the division.

58-71-306. Status of licenses held on the effective date of this chapter.

An individual holding a current license as a naturopathic physician that was issued under prior Utah law is considered to hold a current license and retains the scope of practice authorized under this title prior to the enactment of this chapter.

Part 4 - License Denial and Discipline

58-71-401. Grounds for denial of license - Disciplinary proceedings.

Grounds for division action regarding the following are under Section 58-1-401:

- (1) refusing to issue a license to an applicant or refusing to renew the license of a licensee;
- (2) revoking, suspending, restricting, or placing on probation the license of a licensee;
- (3) assessing an administrative penalty; and
- (4) issuing a public or private reprimand to a licensee or issuing a cease and desist order.

58-71-402. Authority to assess penalty.

- (1) After proceeding pursuant to Title 63, Chapter 46b, Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, the division may impose administrative penalties of up to \$10,000 for acts of unprofessional conduct or unlawful conduct under this chapter.
- (2) Assessment of a penalty under this section does not affect any other action the division is authorized to take regarding a license issued under this chapter.

Part 5 - Unlawful and Unprofessional Conduct - Penalties

58-71-501. Unlawful conduct.

- (1) "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:
 - (a) buying, selling, or fraudulently obtaining, any medical diploma, license, certificate, or registration related to credentials of a naturopathic physician; and
 - (b) aiding or abetting the buying, selling, or fraudulently obtaining of any naturopathic physician diploma, license, certificate, or registration.
- (2) "Unlawful conduct" does not include the good faith expression of informed opinions as to available alternatives to the treatment prescribed or advised by the licensee.

58-71-502. Unprofessional conduct.

"Unprofessional conduct" includes using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule.

58-71-503. Penalty for unlawful conduct.

- (1) Any person who violates the unlawful conduct provisions of Section 58-71-501, Subsection 58-1-501(1)(a), or 58-1-501(1)(c) is guilty of a third degree felony.
- (2) The division may assess administrative penalties in accordance with the provisions of Section 58-71-402, for acts of unlawful conduct.

Part 6 - Impaired Naturopathic Physician

58-71-601. Mentally incompetent or incapacitated naturopathic physician.

- (1) As used in this section:
 - (a) "Incapacitated person" has the same definition as in Section 75-1-201.

- (b) "Mentally ill" has the same definition as in Section 62A-15-602.
- (2) If a court of competent jurisdiction determines a naturopathic physician is an incapacitated person or that he is mentally ill and unable to safely engage in the practice of medicine, the director shall immediately suspend the license of the naturopathic physician upon the entry of the judgment of the court, without further proceedings under Title 63, Chapter 46b, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the naturopathic physician, in writing, of the suspension.
- (3) (a) If the division and a majority of the board find reasonable cause to believe a naturopathic physician, who is not determined judicially to be an incapacitated person or to be mentally ill, is incapable of practicing medicine with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the naturopathic physician with a notice of hearing on the sole issue of the capacity of the naturopathic physician to competently and safely engage in the practice of medicine.
- (b) The hearing shall be conducted under Section 58-1-109, and Title 63, Chapter 46b, Administrative Procedures Act, except as provided in Subsection (4).
- (4) (a) Every naturopathic physician who accepts the privilege of being licensed under this chapter gives consent to:
 - (i) submitting at his own expense to an immediate mental or physical examination when directed in writing by the division and a majority of the board to do so; and
 - (ii) the admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.
- (b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:
 - (i) the naturopathic physician is mentally ill or incapacitated or otherwise unable to practice medicine with reasonable skill and safety; and
 - (ii) immediate action by the division and the board is necessary to prevent harm to the naturopathic physician's patients or the general public.
- (c) (i) Failure of a naturopathic physician to submit to the examination ordered under this section is a ground for the division's immediate suspension of the naturopathic physician's license by written order of the director.
- (ii) The division may enter the order of suspension without further compliance with Title 63, Chapter 46b, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the naturopathic physician and was not related directly to the illness or incapacity of the naturopathic physician.
- (5) (a) A naturopathic physician whose license is suspended under Subsection (2) or (3) has the right to a hearing to appeal the suspension within ten days after the license is suspended.
- (b) The hearing held under this subsection shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the naturopathic physician's patients or the general public.
- (6) A naturopathic physician whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the naturopathic physician, under procedures established by division rule, regarding any change in the naturopathic physician's condition, to determine whether:
 - (a) he is or is not able to safely and competently engage in the practice of medicine; and
 - (b) he is qualified to have his license to practice under this chapter restored completely or in part.

Part 7 - Immunity Provisions

58-71-701. Immunity provisions apply.

Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, applies to licensees under this chapter.

Part 8 - Practice Standards

58-71-801. Disclosure of financial interest by licensee.

- (1) Except as provided in Subsections (2) and (5), licensees under this chapter may not own, directly or indirectly:
 - (a) any pharmacy or pharmaceutical facility as defined in Section 58-17b-102; or
 - (b) a retail store, wholesaler, distributor, manufacturer, or facility of any other kind located in this state that is engaged in the sale, dispensing, delivery, distribution, or manufacture of homeopathic remedies, dietary supplements, or natural medicines.
- (2) A licensee may own or control less than 5% of the outstanding stock of a corporation whose ownership is prohibited under Subsection (1), if the stock of the corporation is publicly traded.
- (3) Licensees under this chapter may not refer patients, clients, or customers to any clinical laboratory, ambulatory or surgical care facilities, or other treatment or rehabilitation services such as physical therapy, cardiac rehabilitation, or radiology services in which the licensee or a member of the licensee's immediate family has any financial relationship as that term is described in 42 U.S.C. 1395nn, unless the licensee at the time of making the referral discloses that relationship, in writing, to the patient, client, or customer.
- (4) The written disclosure under Subsection (3) shall also state the patient may choose any facility or service center for purpose of having the laboratory work or treatment service performed.
- (5) Licensees under this chapter may sell from their offices homeopathic remedies or dietary supplements as defined in the Federal Food Drug and Cosmetic Act consistent with division rule.

58-71-802. Form of practice.

- (1) A naturopathic physician licensed under this chapter may engage in practice as a naturopathic physician, or in the practice of naturopathic medicine only as an individual licensee; but as an individual licensee, he may be:
 - (a) an individual operating as a business proprietor;
 - (b) an employee of another person;
 - (c) a partner in a lawfully organized partnership;
 - (d) a lawfully formed professional corporation;
 - (e) a lawfully organized limited liability company;
 - (f) a lawfully organized business corporation; or
 - (g) any other form of organization recognized by the state which is not prohibited by rule adopted by division rules made in collaboration with the board.
- (2) Regardless of the form in which a licensee engages in the practice of medicine, the licensee may only permit the practice of medicine in that form of practice to be conducted by an individual:
 - (a) licensed in Utah as a naturopathic physician under Section 58-71-301, a physician and surgeon, or as an osteopathic physician and surgeon; and
 - (b) who is able to lawfully and competently engage in the practice of medicine.

58-71-803. Medical records - Electronic records.

- (1) Medical records maintained by a licensee shall:
 - (a) meet the standards and ethics of the profession; and
 - (b) be maintained in accordance with division rules made in collaboration with the board.
- (2) Medical records under this section may be maintained by an electronic means if the records comply with Subsection (1).

58-71-804. Insurance coverage not mandated.

- (1) This chapter does not mandate health insurance coverage for naturopathic medical services.
- (2) This chapter does not establish a class of health care providers for the purposes of Section 31A-22-618.

**NATUROPATHIC PHYSICIAN
PRACTICE ACT**

**Title 58, Chapter 71
Utah Code Annotated 1953
As Amended by
Session Laws of Utah 2005
Issued May 2, 2005**